3621

PATENT

Case Docket No. K35A0614/LQM2462-2002/WESDIG.094A
Date: February 5, 2003

In re application of	:	Scott T. Hughes
App. No.	:	09/585,129
Filed	:	May 31, 2000
For	:	SYSTEM AND METHOD OF RECEIVING ADVERTISEMENT CONTENT FROM ADVERTISERS AND DISTRIBUTING THE ADVERTISING CONTENT TO A NETWORK OF PERSONAL COMPUTERS
Examiner	:	Firmin Backer
Art Unit	:	3621

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February 5, 2003
(Date)

Bruce S. Itchkawitz, Reg. No. 47,677

UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 2327
Arlington, VA 22202

Sir:

Transmitted herewith is a Response to December 13, 2002 Office Action in four (4) pages in the above-identified application.

The fee has been calculated as shown below:

CLAIMS AS FILED

	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDITIONAL FEE
Total Claims	10	—	10	= 0 ×	$ 18	= $0
Independent Claims	2	—	2	= 0 ×	$ 84	= $0
If application has been amended to contain multiple dependent claim(s), then add					$280	= $0
Time Extension Fee						$0
					TOTAL ADDITIONAL FEE FOR THIS AMENDMENT	$0

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K35A0614/LQM2462-2002

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Scott T. Hughes
Appl. No.	:	09/585,129
Filed	:	May 31, 2000
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Examiner	:	Firmin Backer

Group Art Unit 3621

RESPONSE TO DECEMBER 13, 2002 OFFICE ACTION

United States Patent and Trademark Office
P.O. Box 2327
Arlington, Virginia 22202

Dear Sir:

The following remarks are responsive to the December 13, 2002 Office Action. Claims 1-10 remain presented for further consideration. Applicant respectfully requests the Examiner to reconsider the claims in view of the following remarks.

Response to Rejection of Claims 1-10 Under 35 U.S.C. § 103(a)

In the December 13, 2002 Office Action, the Examiner rejects Claims 1-10 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0072965 A1 of Merriman et al. ("Merriman") in view of U.S. Patent No. 6,393,407 issued to Middleton, III et al. ("Middleton"). The Examiner states that Merriman teaches all the limitations of Claims 1-5 except for "wherein the personal computers are configured to periodically receive and store advertising content and display the advertising content while or before bootloading a user selected application environment." The Examiner also states that Merriman teaches all the limitations of Claims 6-10 except for "wherein the advertising data is formatted for storage and display in the network of personal computers while or before the network of personal computers

bootload a selected application environment." The Examiner further states that the limitations not found in Merriman are taught by Middleton and that it would have been obvious to one of ordinary skill in the art to modify Merriman by including the limitations from Middleton. As discussed in detail below, Applicant respectfully submits that Claims 1-10 include limitations that are not taught, disclosed, or suggested by either Merriman or Middleton, so Claims 1-10 are patentable over Merriman in view of Middleton.

Applicant respectfully submits that Middleton does not teach, disclose, or suggest the limitations of Claims 1-5 that are not taught, disclosed, or suggested by Merriman. In particular, Middleton does not teach, disclose, or suggest a method of operating a content delivery system by "collecting identification data from a network of personal computers, wherein the personal computers are configured to periodically receive and store advertising content and display the advertising content while or before bootloading a user selected application environment" as defined by Claim 1 (emphasis added). Similarly, Applicant respectfully submits that Middleton does not teach, disclose, or suggest the limitations of Claims 6-10 that are not taught, disclosed, or suggested by Merriman. In particular, Middleton does not teach, disclose, or suggest a content delivery system that comprises "an advertisement database comprising advertising data, wherein the advertising data is formatted for storage and display in the network of personal computers while or before the network of personal computers bootload a selected application environment" as defined by Claim 6 (emphasis added).

Middleton discloses a method and system for tracking consumer responses to advertising impressions on a Web page. As disclosed by Middleton at column 2, line 58 - column 3, line 2 (emphasis added):

> The invention therefore permits the tracking of user interactions with a Web page advertisement before subsequent actions, such as loading the advertiser's home Web page, occur. For example, the applet may intercept multiple interactions such as mouse clicks on objects to further qualify a user before loading a specific one of the advertiser's own home Web pages.
>
> As a result, the advertiser may obtain information about what interests the user without the user having to leave the originally displayed Web page or

> performing other tasks which are perceived as being cumbersome and/or distracting from what the user was originally doing.

As described by this passage cited by the Examiner, Middleton discloses a system and method in which information regarding a user's interactions with a webpage are sent to an advertiser in a manner transparent to the user prior to the user accessing the advertiser's webpage. The method and system described by Middleton does not teach receiving and storing advertising content and display the advertising content while or before bootloading a user selected application environment.

Merriman and Middleton each requires an active browser in the user workstation, which is only possible after bootloading the application environment. Conversely, in the present application, the method of Claim 1 and the system of Claim 6 each requires that the advertising be displayed while or before the bootloading takes place. Thus, the method of Claim 1 and the system of Claim 6 each beneficially engages the user during an otherwise unproductive period and eliminates the requirement for an active browser.

In view of the foregoing remarks, Applicant respectfully submits that Middleton does not teach, disclose, or suggest the limitations of either Claim 1 or Claim 6 that are not taught, disclosed, or suggested by Merriman. Therefore, independent Claims 1 and 6 are non-obvious over Merriman in view of Middleton.

Claims 2-5 depend from Claim 1, so Claims 2-5 each includes all the limitations of Claim 1, which are not taught, disclosed, or suggested by Merriman in view of Middleton. Furthermore, each of Claims 2-5 further recites limitations of particular utility in addition to the limitations of Claim 1. Claims 7-10 depend from Claim 6, so Claims 7-10 each includes all the limitations of Claim 6, which are not taught, disclosed, or suggested by Merriman in view of Middleton. In view of the arguments presented above with respect to Claim 1 and Claim 6, Applicant respectfully submits that Claims 2-5 and 7-10 are patentably distinguished over Merriman in view of Middleton.

For the foregoing reasons, Applicant respectfully requests the Examiner to withdraw the rejection of Claims 1-10 under 35 U.S.C. § 103(a). Applicant respectfully requests the Examiner to allow Claims 1-10 and to pass this application to the issue process.

Summary

In view of the foregoing amendments and remarks, Applicant respectfully submits that Claims 1-10 are in condition for allowance, and Applicant respectfully requests allowance of Claims 1-10.

Respectfully submitted,

Dated: 2/5/03

By: _____

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